

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
RALPH FUNIGIELLO,

Plaintiff,

07 Civ. 7041 (BSJ)

-against-

COMPLAINT

METRO-NORTH COMMUTER RAILROAD,

Defendant.

-----X

PLAINTIFF DEMANDS TRIAL BY JURY

Plaintiff, by his attorneys, Law Offices of Michael Flynn, PC, complains of the defendant and alleges:

FIRST: This action is brought under the Federal Employers' Liability Act, (45 U.S.C. Sec. 51 et seq.).

SECOND: The defendant is a corporation is engaged in interstate commerce by rail and operate a railroad system and railroad yards within the jurisdiction of this Court and in various other States.

THIRD: That prior to November 14, 2006, and at all times hereinafter mentioned, the defendant employed the plaintiff as an electrical tester under its direction, supervision and control and in furtherance of defendant's business in interstate commerce.

FOURTH: That prior to November 14, 2006, and at all times hereinafter mentioned, the defendant maintained, operated and controlled a rail line near Mott Haven, New York which contained defendant's tracks, rails, switches, sidings, roadbeds and appurtenances thereto, over, through and upon which the defendant operated engines, trains and cars under its control and direction.

FIFTH: That on or about November 14, 2006, while the plaintiff, an employee of the defendant, was in the performance of his duties as an electrical tester at or near Mott Haven, New York, the defendant, its agents, servants and employees, so negligently and carelessly conducted themselves toward the plaintiff in failing to provide plaintiff with a reasonably safe place to work; in failing to properly install electrical transformers; in failing to de-energize; in failing to provide proper test equipment; and, so negligently failed and neglected to enact and enforce safety rules, regulations, procedures, and practices for activities carried out by its personnel at the said place, that all of the foregoing brought about severe and disabling injuries to plaintiff.

SIXTH: That the said injuries occurred while the plaintiff was acting in the furtherance of interstate commerce or in work closely or substantially affecting the same.

SEVENTH: That the plaintiff was damaged thereby in the sum of \$1,000,000.00.

WHEREFORE, plaintiff demands judgment against the defendant in the sum of ONE MILLION (\$1,000,000.00) DOLLARS, together with the costs and disbursements of this action.

Law Offices of Michael Flynn, PC  
Attorneys for Plaintiff  
1205 Franklin Avenue  
Garden City, NY 11530  
(516) 877-1234

By: \_\_\_\_\_  
MICHAEL FLYNN, MF7150

AO 440 (Rev. 5/85) Summons in a Civil Action

***UNITED STATES DISTRICT COURT***

SOUTHERN

District of

NEW YORK

RALPH FUNIGIELLO,

Plaintiff,

**SUMMONS IN A CIVIL ACTION**

**V.**

CASE NUMBER:

METRO-NORTH COMMUTER RAILROAD,

Defendant.

**TO: (Name and Address of Defendant)**

Metro-North Commuter Railroad  
347 Madison Avenue  
New York, NY 10017

YOU ARE HEREBY SUMMONED and required to file with the Clerk of this Court and serve upon

PLAINTIFF'S ATTORNEY (name and address)

Michael Flynn, Esq., MF7150  
Law Offices of Michael Flynn, PC  
1205 Franklin Avenue  
Garden City, NY 11530  
(516) 877-1234

an answer to the complaint, which is herewith upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

\_\_\_\_\_  
CLERK

\_\_\_\_\_  
DATE

\_\_\_\_\_  
BY DEPUTY CLERK

AO 440 (Rev. 5/85) Summons in a Civil Action

**RETURN OF SERVICE**

DATE

Service of the Summons and Complaint was made by me<sup>1</sup> \_\_\_\_\_

NAME OF SERVER

TITLE

Check the box below to indicate appropriate method of service

☐ Served personally upon the defendant. Place where served: \_\_\_\_\_

☐ Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein.  
Name of person with whom the summons and complaint were left: \_\_\_\_\_

☐ Returned unexecuted: \_\_\_\_\_

☐ Other (specify): \_\_\_\_\_

**STATEMENT OF SERVICE FEES**

TRAVEL

SERVICES

TOTAL

**DECLARATION OF SERVER**

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.

Executed on \_\_\_\_\_  
DATE

\_\_\_\_\_  
SIGNATURE OF SERVER

\_\_\_\_\_  
ADDRESS OF SERVER

1) As to who may serve a summons see Rule 4 of the Federal Rules of Civil Procedure.